

CHECKLIST FOR DEFENDANTS WITH MENTAL HEALTH ISSUES IN DALLAS

(see below for more information and for defense attorneys outside Dallas County)

(1) What is the diagnosed mental illness?

The defense attorney should get documentation from a doctor indicating:

- a. the diagnosis
- b. the prognosis
- c. the current condition

(2) If you have no other information regarding his mental illness, you might contact the county mental health coordinator at 214-875-2323

The Mental Health Coordinator can see if the defendant has been a client of some service providers (i.e. has a mental illness) and give the defendant a referral to insure that the person has a place to stay and medication, if and when, they are released.

(3) After you have determined the diagnosed mental illness, (and it is a probation eligible, non-violent offense) contact ADAPT: ACS1115Referrals@adapt.us OR Phone: 214-761-1300

And advise them that you would like the defendant evaluated. They can evaluate which programs would benefit him if he is released on probation.

(4) CATS evaluation - You may want to request a CATS evaluation, but the ADAPT report should be sufficient. The CATS evaluation will indicate whether the person is eligible for the MIMR (Mental Illness Mental Retardation) caseload. The defense attorney can initiate this or the prosecutor can send a rec to probation indicating that a CATS evaluation is requested. When you have this you will be in a better position to evaluate the case.

By putting the case on the mental health caseload, i.e. psychologists in CATS approval for it and getting the coordinator or mental health public defender's case-managers involved, they may be able to get the defendant in a program that will keep him medication compliant (depending on the nature of the offense). Also, the Mental Health Coordinator monitors people in our jail with mental illnesses. This ensures that they do not languish in the jail when they should be in another program or facility, i.e. avoids liability.

Notify the Mental Health Division prosecutors for severe cases, incompetency or insanity issues. One third of the people in the Dallas jail have a diagnosed mental illness and therefore the Mental Health Division cannot take all the cases. The prosecutors in the Dallas District Attorney's Office have received training in mental illness and can do the same things that attorneys in the Mental Health Division would do. A checklist for them is on our K drive.

MENTAL HEALTH CHECKLIST FOR DEFENSE ATTORNEYS

MENTAL ILLNESS

1. Ask the client questions to determine the mental illness diagnosis.

Interview the client as soon as possible.

Ask about the facts of the case.

Ask a client whether he or she has been treated for any type of mental illness.

Ask if they have ever been prescribed any psychiatric medications.

Review medical records (all of the relevant medical, psychological, and intellectual testing records) if available. You have a right to these.

Ask whether he or she took special classes in school.

Talk to the family.

Interview witnesses.

To the extent possible, explain the law. Inform the client of their legal options regarding disposition of the case and right to a jury trial or a trial before the court and the right to be present at hearings. Review with the client the certificates of current physical, medical, and intellectual examinations. Do they seem to understand this?

2. Is the client competent? (see below)

3. Get the client out of jail on bond, if possible. Review Tex. Code Crim. Proc. art. 16.22 and 17.032 (Early Identification and Release of Mentally Ill).ⁱ

4. Familiarize yourself with options available in your community. Talk to mental health professionals, public defenders that specialize in mental health, etc.. For a list of approximately 300 community resources available in the Dallas area visit www.dallasda.com and click on "Community Prosecution".

5. Mentally ill individuals can be placed on probation or promised conditional dismissals with requirements including but not limited to:

(1) stay on their medications;

(2) not consume illegal drugs or alcohol (imperative as this exacerbates the mental condition and diminishes and conflicts with the effect of prescribed medications);

(3) see mental health professionals; and

(4) see case managers who can obtain supportive housing, transportation, etc. for them.

6. An attorney who is appointed or retained to represent a special needs offender or a juvenile with a mental impairment can disclose medical information for the purposes of continuity of care. Tex. Health & Safety Code § 614.017

7. If your client was arrested without a warrant, look at the Texas Health and Safety Code section 573.001 which requires that apprehended persons with mental illness be taken to a mental health facility instead of a jail facility in certain situations. Jail personnel may have the authority to divert the client to a mental health facility. Ask detention personnel if the client can be moved to a medical facility, if appropriate.

8. Familiarize yourself with civil commitments if applicable.

9. Familiarize yourself with “Duties of Attorney” Tex. Health & Safety Code 574.004 (see below).

10. Explain your client’s absence to the court at meetings or hearings. Determine if you need an independent psychiatric evaluation.

COMPETENCY

1. Consider an Evaluation for Incompetency. This may be the best way to begin treatment services for the client. Review 46B of the Texas Code of Criminal Procedure
2. If the client is incompetent, ask the court coordinator to have the client evaluated by a doctor:

*When a doctor has determined that an individual is incompetent, the certificates of medical examination are valid for 30 days. Health and Safety Code § 574.066(c). **HAVE A COMPETENCY HEARING WITHIN 30 DAYS OF THE DAY OF THE EVALUATION** (not the day of the report). Failure to do so will result in unnecessary delays and incarceration for the client, the wrath of the judge and unnecessary expenses to the taxpayer

*Consider Outpatient Competency Restoration “OCR”. “The court *shall* order a defendant released on bail under Subsection (a) to participate in an outpatient treatment program for a period not to exceed 120 days.” Tex. Code Crim. Proc. art. 46B.072 (b) (emphasis added).

*If appropriate, ask the prosecutor about a Civil Commitment in return for a dismissal. A prosecutor may agree to dismiss the case based on the client’s mental health commitment.

* Misdemeanor cases shall be dismissed if the defendant is not tried before the second anniversary of the date on which the order of commitment was entered. Tex. Code Crim. Proc. art. 46B.010.

INSANITY

1. Consider an evaluation for insanity. Review 46C of the Texas Code of Criminal Procedure
2. If the client was insane at the time of the offense:
 - * give timely Notice of Insanity to the State no less than 20 days prior to the trial. Tex. Code Crim. Proc. art. 46C.051(b)(2).

*Advise the client that the court will continue to have jurisdiction over the client. ii

Conclusion: Familiarize yourself with mental health issues and the many specific deadlines by reading the following suggested articles and/or books:

Mental Illness, Your Client and the Criminal Law, Texas Tech University School of Law (2005). This book is a very valuable resource for defense attorneys and prosecutors and has a helpful guide indicating which medications are prescribed for different mental illnesses (to obtain free copies of this book go to <http://www.texasappleseed.net> or e-mail info@texasappleseed.net).

Mental Health – Therapeutic Justice, by Cindy Stormer, Advanced Criminal Law, State Bar of Texas 2013 (request via e-mail at: cstormer@dallascounty.org).

Texas Criminal Procedure and the Offender with Mental Illness by Brian D. Shannon and Daniel H. Benson.

APPENDIX:

Motion for Psychiatric Examination

16.22 Early Identification of Defendant's suspected of Having Mental Illness or MR

Art. 17.032. Release on Personal Bond of Certain Mentally Ill Defendants

46B.071 Out-patient Competency Restoration

Art. 46B.072. Release on Bail

Health & Safety Code § 614.017. Exchange of Information

Health & Safety Code § 574.004. Duties of Attorney

By CINDY STORMER, Chief of Mental Health Division. Assistant District Attorney

Dallas County District Attorney's Office, Dallas County, Texas

Form: Competency Motion

[Use this motion to bring competency issues to the Court's attention.]

No. _____

THE STATE OF TEXAS

IN THE COUNTY/DISTRICT COURT

v.

OF

[Name of Defendant]

[COUNTY], TEXAS

MOTION FOR PSYCHIATRIC EXAMINATION OF DEFENDANT

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now [Name of Defendant], Defendant in the above-entitled and numbered cause, pursuant to Tex. Code Crim. Proc. Chapter 46B, and moves the Court to order a psychiatric examination of the Defendant to evaluate the Defendant's competency to stand trial, and in support of such motion, shows:

I.

The Defendant has been charged with ____ and is presently in the custody in the ____ County jail awaiting disposition of this case. The Defendant is indigent and does not have sufficient funds to retain a mental health expert for the purposes of this examination.

II.

Article 46B.021 of the Texas Code of Criminal Procedure states that at any time the issue of the defendant's incompetency to stand trial is raised, the court may, on its own motion or motion by the defendant, his counsel, or the prosecuting attorney, appoint one or more disinterested experts experienced and qualified in mental health or mental retardation to examine the defendant with regard to his competency to stand trial and to testify at any trial or hearing on this issue.

III.

Information has come to the attention of counsel for the Defendant which raises the question of whether the Defendant is mentally competent to stand trial at this time. Furthermore, counsel for Defendant is not qualified to evaluate conclusively whether the Defendant is competent to stand trial without the specialized assistance of a mental health expert.

(State the specific reasons _____ e.g. *The Defendant thinks alternately that the Defendant is the President, a vampire, Batman, Satan, and bearing God's child. Defendant has frequently been found dancing naked in the jail. The defendant has a lengthy history of mental illness, and has been committed to various mental health facilities in the past*).

WHEREFORE, the Defendant prays the Court grant this motion and appoint a disinterested expert experienced and qualified in mental health to examine the Defendant with regard to Defendant's competency to stand trial.

Respectfully submitted,

CERTIFICATE OF SERVICE

This is to certify that a copy of this Motion For Psychiatric Examination Of Defendant has been served upon the attorney for the State by mailing a copy of same to _____ on this the ____ day of _____ 20__.

Attorney for Defendant

No. _____

THE STATE OF TEXAS

IN THE COUNTY/DISTRICT COURT

v.

OF

[Name of Defendant]

[COUNTY], TEXAS

ORDER TO EXAMINE THE DEFENDANT REGARDING COMPETENCY

On this the _____ day of _____, 20__, the issue of the competency of [Name of Defendant], the Defendant, to stand trial being raised, the Court on the motion of the attorney for the Defendant to appoint disinterested experts experienced and qualified in mental health or retardation to examine the Defendant with regard to his competency to stand trial at the time of the alleged offense; and the Court having determined that a private psychiatrist should be appointed.

IT IS THEREFORE ORDERED AND DECREED that _____, a practicing psychiatrist, be hereby appointed to examine the Defendant or that the Sheriff of [County] shall take the Defendant and safely deliver him to the head of the State mental facility, _____, for observation, examination and treatment.

The examiner is advised that the Defendant is charged with the offense of _____ alleged to have been committed on or about the _____ day of _____, 20__, and that the legal meaning of incompetency to stand trial is whether or not the Defendant has sufficient present ability to

consult with his lawyer with a reasonable degree of rational understanding of the proceeding against him.

The examiner shall report in writing to this Court within 21 days from this date. The report shall include a description of the procedures used in the examination, the examiner's observation and findings pertaining to the Defendant's competency to stand trial, and the recommended treatment. If the examiner concludes that the Defendant is incompetent to stand trial, the report shall include the examiner's observations and findings about whether there is a substantial probability that the Defendant will attain the competence to stand trial in the foreseeable future.

The County auditor of [County] shall pay the reasonable and necessary fees charged by said psychiatrist for said examination and report.

JUDGE PRESIDING

Tex. Code Crim. Proc. art. 16 and 17

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR MENTAL RETARDATION.

(a) (1) Not later than 72 hours after receiving credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with mental retardation, including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant, the sheriff shall provide written or electronic notice of the information to the magistrate. On a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with mental retardation, the magistrate, except as provided by Subdivision (2), shall order the local mental health or mental retardation authority or another qualified mental health or mental retardation expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003, Health and Safety Code, or is a person with mental retardation as defined by Section 591.003, Health and Safety Code, including information obtained from any previous assessment of the defendant; and

(B) provide to the magistrate a written assessment of the information collected under Paragraph (A).

(2) The magistrate is not required to order the collection of information under Subdivision (1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with mental retardation by the local mental health or mental retardation authority or another mental health or mental retardation expert described by Subdivision (1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

(3) If the defendant fails or refuses to submit to the collection of information regarding the defendant as required under Subdivision (1), the magistrate may order the defendant to submit to an examination in a mental health facility determined to be appropriate by the local mental health or mental retardation authority for a reasonable period not to exceed 21 days. The magistrate may order a defendant to a facility operated by the Department of State Health Services or the Department of Aging and Disability Services for examination only on request of the local mental health or mental retardation authority and with the consent of the head of the facility. If a defendant who has been ordered to a facility operated by the Department of State Health Services or the Department of Aging and Disability Services for examination remains in the facility for a period exceeding 21 days, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That county shall reimburse the facility for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at the time.

(b) A written assessment of the information collected under Subsection (a)(1)(A) shall be provided to the magistrate not later than the 30th day after the date of any order issued under Subsection (a) in a felony case and not later than the 10th day after the date of any order issued under that subsection in a

misdemeanor case, and the magistrate shall provide copies of the written assessment to the defense counsel, the prosecuting attorney, and the trial court. The written assessment must include a description of the procedures used in the collection of information under Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

- (1) whether the defendant is a person who has a mental illness or is a person with mental retardation;
- (2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and
- (3) recommended treatment.

(c) After the trial court receives the applicable expert's written assessment relating to the defendant under Subsection (b) or elects to use the results of a previous determination as described by Subsection (a)(2), the trial court may, as applicable:

- (1) resume criminal proceedings against the defendant, including any appropriate proceedings related to the defendant's release on personal bond under Article 17.032;
- (2) resume or initiate competency proceedings, if required, as provided by Chapter 46B or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or mental retardation services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; or
- (3) consider the written assessment during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision.

(d) This article does not prevent the applicable court from, before, during, or after the collection of information regarding the defendant as described by this article:

- (1) releasing a mentally ill or mentally retarded defendant from custody on personal or surety bond; or
- (2) ordering an examination regarding the defendant's competency to stand trial.

Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN MENTALLY ILL DEFENDANTS. (a) In this article, "violent offense" means an offense under the following sections of the Penal Code:

- (1) Section 19.02 (murder);
- (2) Section 19.03 (capital murder);
- (3) Section 20.03 (kidnapping);

- (4) Section 20.04 (aggravated kidnapping);
- (5) Section 21.11 (indecent with a child);
- (6) Section 22.01(a)(1) (assault);
- (7) Section 22.011 (sexual assault);
- (8) Section 22.02 (aggravated assault);
- (9) Section 22.021 (aggravated sexual assault);
- (10) Section 22.04 (injury to a child, elderly individual, or disabled individual);
- (11) Section 29.03 (aggravated robbery);
- (12) Section 21.02 (continuous sexual abuse of young child or children); or
- (13) Section 20A.03 (continuous trafficking of persons).

(b) A magistrate shall release a defendant on personal bond unless good cause is shown otherwise if the:

- (1) defendant is not charged with and has not been previously convicted of a violent offense;
- (2) defendant is examined by the local mental health or mental retardation authority or another mental health expert under Article 16.22 of this code;
- (3) applicable expert, in a written assessment submitted to the magistrate under Article 16.22:
 - (A) concludes that the defendant has a mental illness or is a person with mental retardation and is nonetheless competent to stand trial; and
 - (B) recommends mental health treatment for the defendant; and
- (4) magistrate determines, in consultation with the local mental health or mental retardation authority, that appropriate community-based mental health or mental retardation services for the defendant are available through the Texas Department of Mental Health and Mental Retardation under Section 534.053, Health and Safety Code, or through another mental health or mental retardation services provider.

(c) The magistrate, unless good cause is shown for not requiring treatment, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health or mental retardation treatment as recommended by the local mental health or mental retardation authority if the defendant's:

- (1) mental illness or mental retardation is chronic in nature; or

(2) ability to function independently will continue to deteriorate if the defendant is not treated.

(d) In addition to a condition of release imposed under Subsection (c) of this article, the magistrate may require the defendant to comply with other conditions that are reasonably necessary to protect the community.

(e) In this article, a person is considered to have been convicted of an offense if:

(1) a sentence is imposed;

(2) the person is placed on community supervision or receives deferred adjudication; or

(3) the court defers final disposition of the case.

OUTPATIENT COMPETENCY RESTORATION

Art. 46B.071. OPTIONS ON DETERMINATION OF INCOMPETENCY. (a) Except as provided by Subsection (b), on a determination that a defendant is incompetent to stand trial, the court shall:

(1) commit the defendant to a facility under Article 46B.073; or

(2) release the defendant on bail under Article 46B.072.

(b) On a determination that a defendant is incompetent to stand trial and is unlikely to be restored to competency in the foreseeable future, the court shall:

(1) proceed under Subchapter E (Civil Commitment charges Pending) or F (Civil Commitment Dismissal);
or

(2) release the defendant on bail as permitted under Chapter 17.

Art. 46B.072. Release on Bail

(a) Subject to conditions reasonably related to assuring public safety and the effectiveness of the defendant's treatment, if the court determines that a defendant found incompetent to stand trial is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial and if an appropriate outpatient treatment program is available for the defendant, the court:

(1) may release on bail a defendant found incompetent to stand trial with respect to a felony or may continue the defendant's release on bail; and

(2) shall release on bail a defendant found incompetent to stand trial with respect to a misdemeanor or shall continue the defendant's release on bail.

(b) The court shall order a defendant released on bail under Subsection (a) to participate in an outpatient treatment program for a period not to exceed 120 days.

(c) Notwithstanding Subsection (a), the court may order a defendant to participate in an outpatient treatment program under this article only if:

(1) the court receives and approves a comprehensive plan that:

(A) provides for the treatment of the defendant for purposes of competency restoration; and

(B) identifies the person who will be responsible for providing that treatment to the defendant; and

(2) the court finds that the treatment proposed by the plan will be available to and will be provided to the defendant.

(d) An order issued under this article may require the defendant to participate in:

(1) as appropriate, an outpatient treatment program administered by a community center or an outpatient treatment program administered by any other entity that provides outpatient competency restoration services; and

(2) an appropriate prescribed regimen of medical, psychiatric, or psychological care or treatment, including care or treatment involving the administration of psychoactive medication, including those required under Article 46B.086.

Health & Safety Code § 614.017. Exchange of Information

(a) An agency shall:

(1) accept information relating to a special needs offender or a juvenile with a mental impairment that is sent to the agency to serve the purposes of continuity of care and services regardless of whether other state law makes that information confidential; and

(2) disclose information relating to a special needs offender or a juvenile with a mental impairment, including information about the offender's or juvenile's identity, needs, treatment, social, criminal, and vocational history, supervision status and compliance with conditions of supervision, and medical and mental health history, if the disclosure serves the purposes of continuity of care and services.

(b) Information obtained under this section may not be used as evidence in any juvenile or criminal proceeding, unless obtained and introduced by other lawful evidentiary means.

(c) In this section:

(1) "Agency" includes any of the following entities and individuals, a person with an agency relationship with one of the following entities or individuals, and a person who contracts with one or more of the following entities or individuals:

- (A) the Texas Department of Criminal Justice and the Correctional Managed Health Care Committee;
- (B) the Board of Pardons and Paroles;
- (C) the Department of State Health Services;
- (D) the Texas Juvenile Justice Department;
- (E) the Department of Assistive and Rehabilitative Services;
- (F) the Texas Education Agency;
- (G) the Commission on Jail Standards;
- (H) the Department of Aging and Disability Services;
- (I) the Texas School for the Blind and Visually Impaired;
- (J) community supervision and corrections departments and local juvenile probation departments;
- (K) personal bond pretrial release offices established under Article 17.42, Code of Criminal Procedure;
- (L) local jails regulated by the Commission on Jail Standards;
- (M) a municipal or county health department;
- (N) a hospital district;
- (O) a judge of this state with jurisdiction over juvenile or criminal cases;
- (P) an attorney who is appointed or retained to represent a special needs offender or a juvenile with a mental impairment;
- (Q) the Health and Human Services Commission;
- (R) the Department of Information Resources;
- (S) the bureau of identification and records of the Department of Public Safety, for the sole purpose of providing real-time, contemporaneous identification of individuals in the Department of State Health Services client data base; and
- (T) the Department of Family and Protective Services.

(2) "Special needs offender" includes an individual for whom criminal charges are pending or who after conviction or adjudication is in custody or under any form of criminal justice supervision.

(3) "Juvenile with a mental impairment" means a juvenile with a mental impairment in the juvenile justice system.

(d) An agency shall manage confidential information accepted or disclosed under this section prudently so as to maintain, to the extent possible, the confidentiality of that information.

(e) A person commits an offense if the person releases or discloses confidential information obtained under this section for purposes other than continuity of care and services, except as authorized by other law or by the consent of the person to whom the information relates. An offense under this subsection is a Class B misdemeanor.

Health & Safety Code § 574.004. Duties of Attorney

(a) An attorney representing a proposed patient shall interview the proposed patient within a reasonable time before the date of the hearing on the application.

(b) The attorney shall thoroughly discuss with the proposed patient the law and facts of the case, the proposed patient's options, and the grounds on which the court-ordered mental health services are being sought. A court-appointed attorney shall also inform the proposed patient that the proposed patient may obtain personal legal counsel at the proposed patient's expense instead of accepting the court-appointed counsel.

(c) The attorney may advise the proposed patient of the wisdom of agreeing to or resisting efforts to provide mental health services, but the proposed patient shall make the decision to agree to or resist the efforts. Regardless of an attorney's personal opinion, the attorney shall use all reasonable efforts within the bounds of law to advocate the proposed patient's right to avoid court-ordered mental health services if the proposed patient expresses a desire to avoid the services. If the proposed patient desires, the attorney shall advocate for the least restrictive treatment alternatives to court-ordered inpatient mental health services.

(d) Before a hearing, the attorney shall:

(1) review the application, the certificates of medical examination for mental illness, and the proposed patient's relevant medical records;

(2) interview supporting witnesses and other witnesses who will testify at the hearing; and

(3) explore the least restrictive treatment alternatives to court-ordered inpatient mental health services.

(e) The attorney shall advise the proposed patient of the proposed patient's right to attend a hearing or to waive the right to attend a hearing and shall inform the court why a proposed patient is absent from a hearing.

(f) The attorney shall discuss with the proposed patient:

(1) the procedures for appeal, release, and discharge if the court orders participation in mental health services; and

(2) other rights the proposed patient may have during the period of the court's order.

(g) To withdraw from a case after interviewing a proposed patient, an attorney must file a motion to withdraw with the court. The court shall act on the motion as soon as possible. An attorney may not withdraw from a case unless the withdrawal is authorized by court order.

(h) The attorney is responsible for a person's legal representation until:

(1) the application is dismissed;

(2) an appeal from an order directing treatment is taken;

(3) the time for giving notice of appeal expires by operation of law; or

(4) another attorney assumes responsibility for the case.

ⁱ “A written assessment of the information collected . . . shall be provided to the magistrate not later than the 30th day after the date of any order issued . . . in a felony case and not later than the 10th day after the date of any order issued . . . in a misdemeanor case, and the magistrate shall provide copies of the written assessment to the defense counsel, the prosecuting attorney, and the trial court.” Tex. Code Crim. Proc. art. 16.22 (emphasis added).

Article 17.032 of the Code of Criminal Procedure provides for release on personal bond of certain mentally ill defendants. “A magistrate shall release a defendant on personal bond unless good cause is shown otherwise if the defendant is not charged with and has not been previously convicted of a violent offense”. Tex. Code Crim. Proc. art. 17.032 (b)(emphasis added).

ⁱⁱ “The jurisdiction of the court over a person (found not guilty by reason of insanity) terminates on the date when the cumulative total period of institutionalization and outpatient community-based treatment and supervision imposed . . . equals the maximum term of imprisonment provided by law for the offense of which the person was acquitted by reason of insanity.” Tex. Code Crim. Proc. art.46C.269.